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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,739

01/27/2004

Umit Turunc

D4670-00029

1100

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7590

12/01/2006

DUANE MORRIS, LLP

IP DEPARTMENT

30 SOUTH 17TH STREET

PHILADELPHIA, PA 19103-4196

EXAMINER

TOOMER, CEPHIA D

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

5

Office Action Summary	Application No. 10/765,739	Applicant(s) TURUNC ET AL.	
	Examiner Cephia D. Toomer	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Roe (US 5,576,056).

Roe teaches a coal oxidation inhibiting composition comprising an aqueous solution of water-soluble cationic polymer (see abstract). The preferred cationic polymers are diethylaminetriamine/adipic acid/epichlorohydrin or aminomethylated polyacrylamide (see col. 2, lines 43-45). In the preferred method the aqueous solution contains an anionic foaming agent (see col. 2, lines 45-48). The solution is applied as a coating over the exterior surfaces of coal (see col. 2, lines 43-45). The anionic foaming agents may be alpha-olefin sulfonates (see col. 3, lines 15-21).

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The composition comprises 0.05-20 wt% water-soluble cationic polymer, from about 0.05 to about 5 wt% foaming agent and from 75 to 99.9 wt% water (see col. 3, lines 34-37).

Accordingly, Roe teaching the limitations of the claims anticipates the claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roe (US 5,576,056) in view of Zinkan (US 4,801,635).

Roe fails to teach the claimed anionic surfactants. Zinkan teaches a composition and method for dust control comprising an aqueous medium containing 0.5 to 25 parts by weight of an anionic surfactant and 1-35 parts by weight of a nonionic polyoxy alcohol cosurfactant (see abstract; col. 2, lines 35-40). The most preferred water-soluble nonionic surfactant is alkylphenol polyoxy alcohols. The anionic surfactant may be sulfates, sulfonates or dialkyl sulfosuccinates. This teaching suggests dioctyl sulfosuccinate (see col. 4, lines 32-39, 56-61).

It would have been obvious to one of ordinary skill in the art to replace the sulfates or sulfonates of Roe with the dialkyl sulfosuccinates of Zinkan because to substitute one anionic surfactant for another is prima facie obvious.

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With respect to applying the coating with out a foaming agent, Roe teaches that he prefers to apply the composition as foam but such method of application is not required.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roe in view of JP 2000-096040.

Roe has been discussed above. Roe fails to teach the addition of a non-ionic surfactant. However, JP teaches this difference.

JP teaches a method of preventing oxidation of coal by applying a stabilizing agent comprising an alkylphenol ethoxylate of the formula $RO(C_2H_4O)_nH$ wherein R is alkylphenyl where the alkyl group has 8-22 carbon atoms and n is 3-10. JP also uses anionic surfactants such as sulfonates (see abstract; paragraphs 0007 and 0009).

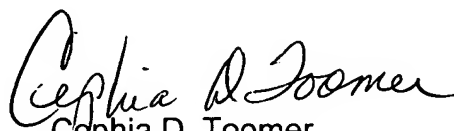
It would have been obvious to one of ordinary skill in the art to include the alkylphenol ethoxylate in the coal oxidation inhibiting composition because JP teaches that the nonionic surfactants aid in stabilizing the coal. With respect to JP not teaching a mixture of nonylphenol and octylphenol ethoxylate, it is prima facie obvious to combine two compounds each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose. *In re Kerkhoven*, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Cephia D. Toomer
Primary Examiner
Art Unit 1714

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